

# New Mexico

## **State Water Quality Agency**

New Mexico's water quality laws are administered by the New Mexico Environment Department (NMED), Water and Waste Management Division (WWMD).<sup>1</sup> The Water and Waste Management Division includes four bureaus: the NMED Oversight Bureau, the Groundwater Quality Bureau, the Hazardous Waste Bureau, and the Surface Water Quality Bureau. The Surface Water Quality Bureau (SWQB) administers most of the regulations/policies/programs discussed below.<sup>2</sup>

## **Delegated Permit Authority**

New Mexico is not delegated permit authority for the National Pollutant Discharge Elimination System (NPDES) program (including stormwater permits) or the section 404 dredge and fill permit program. However, the State is involved in both of these permit programs through its section 401 certification responsibilities.

## **State Definition of Covered Waters**

According to New Mexico State water quality laws, "water" means "all water, including water situated wholly or partly within or bordering upon the state, whether surface or subsurface, public or private, except private waters that do not combine with other surface or subsurface water."<sup>3</sup>

State water quality standards extend to all waters meeting the definition of "surface water(s) of the state."<sup>4</sup> This includes isolated wetlands and intermittent streams. Separate groundwater quality standards are incorporated in the New Mexico Ground and Surface Water Protection Regulations.<sup>5</sup>

## **Point Sources and NPDES Permits**

The BLM does not hold any NPDES permits in New Mexico. The BLM has filed notifications to comply with stormwater regulations (under the NPDES program), but these are not permits.

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<sup>1</sup> Additional information is available on their webpage: <http://www.nmenv.state.nm.us/wwmd/index.html>.

<sup>2</sup> The SWQB's webpage is at: <http://www.nmenv.state.nm.us/swqb/index.html>.

<sup>3</sup> N.M. Stat. Ann. § 74-6-2(H).

<sup>4</sup> Surface water(s) of the state are "all interstate waters including interstate wetlands, and all intrastate waters, such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, reservoirs or natural ponds the use, degradation, or destruction of which would affect interstate or foreign commerce. Surface waters of the state also means all tributaries of such waters, including adjacent wetlands, and any manmade bodies of water which were originally created in surface waters of the state or resulted in the impoundment of surface waters of the state. Surface waters of the state does not include private waters that do not combine with other surface or subsurface water or any water under tribal regulatory jurisdiction pursuant to § 518 of the Clean Water Act. Waste treatment systems, including treatment ponds or lagoons designed to meet requirements of the Clean Water Act (other than cooling ponds as defined in 40 CFR 423.11(m) which also meet the criteria of this definition), are not surface waters of the state, unless they were originally created in surface waters of the state or resulted in the impoundment of surface waters of the state." NMAC 20.6.4.7(RR).

<sup>5</sup> NMAC 20.6.2.

## **Water Quality Standards**

### **Designated Uses**

Designated uses have been established by the New Mexico Water Quality Control Commission (WQCC) at the recommendation of SWQB. New Mexico's designated uses are outlined in Figure One.

**Figure One: New Mexico State-Designated Use Descriptions**

<b>State-Designated Use Code</b>	<b>State-Designated Use</b>	<b>State-Designated Use Description</b>
HQCF	High Quality Coldwater Fishery	A perennial surface water of the State in a minimally disturbed condition which has considerable aesthetic value and is a superior coldwater fishery habitat. A surface water of the State to be so categorized must have water quality, stream bed characteristics, and other attributes of habitat sufficient to protect and maintain a propagating coldwater fishery.
IRR	Irrigation	A water of the State used as a supply of water for crops.
IRRS	Irrigation Storage	
LW	Livestock Watering	A surface water of the State used as a supply of water for consumption by livestock and other animals.
FC	Fish Culture	Production of coldwater or warmwater fishes in a hatchery or rearing station.
CF	Coldwater Fishery	A surface water of the State where the water temperature and other characteristics are suitable for the support or propagation or both of coldwater fishes.
LWF	Limited Warmwater Fishery	A surface water of the State where intermittent flow may severely limit the ability of the reach to sustain a natural fish population on a continuous annual basis; or a stream where historical data indicate that the maximum temperature in the surface water of the State may routinely exceed 32.2 C (90 F).
MCF	Marginal Coldwater Fishery	A surface water of the State known to support a coldwater fish population during at least some portion of the year, even though historical data indicates that the maximum temperature in the stream may exceed 20 C (68 F).
WF	Warmwater Fishery	A surface water of the State where the water temperature and other characteristics are suitable for the support or propagation or both of warmwater fishes.
WH	Wildlife Habitat	A surface water of the State used by plants and animals, not considered as pathogens, vectors for pathogens or intermediate hosts for pathogens for humans or domesticated livestock and plants.
IWS	Industrial Water Supply	
IWST	Industrial Water Storage	
DWS	Domestic Water Supply	A surface water that may be used for drinking or culinary purposes after disinfection.
MWS	Municipal Water Supply	
MWST	Municipal Water Storage	

PC	Primary Contact	Any recreational or other water use in which there is prolonged and intimate contact with the water, such as swimming and water skiing, involving considerable risk of ingesting water in quantities sufficient to pose a significant health hazard. Primary contact also means any use of streams or water for Native American traditional cultural, religious, or ceremonial purposes in which there is intimate contact with the water that involves considerable risk sufficient to pose a significant health risk. The contact may include but is not limited to ingestion or immersion.
SC	Secondary Contact	Any recreational or other water use in which contact with the water may occur and in which the probability of ingesting appreciable quantities of water is minimal, such as fishing, wading, commercial and recreational boating and any limited seasonal contact.

Source: EPA WQSDB available at: [http://oaspub.epa.gov/wqsdatabase/wqsi\\_water\\_body.rep\\_parameter](http://oaspub.epa.gov/wqsdatabase/wqsi_water_body.rep_parameter)

## Water Quality Criteria

Numeric and narrative water quality standards are established by the WQCC to protect designated, existing, and attainable uses. There are both site-specific criteria and use-specific criteria in New Mexico's water quality standards.

New Mexico has established water quality criteria necessary to protect aquatic biota from toxic pollutants. Chronic and acute criteria are established for 14 pollutants.<sup>6</sup> In addition, numeric criteria for toxic pollutants in water used for irrigation, domestic water supply, livestock watering, and wildlife habitat were developed. The majority of these criteria are for the dissolved fraction of the metals, and are largely based on criteria recommended by the EPA. State-adopted, EPA-approved numerical limits are found in NMAC 20.6.4.

New Mexico does not have streamflow criterion to protect streamflow necessary to support existing uses. The State is in the process of developing biological criteria.

## Sediment

For the State's sediment criteria, New Mexico is implementing the national stream bottom deposit approach.<sup>7</sup> The State has also issued an assessment protocol for sedimentation on small streams.<sup>8</sup>

## Antidegradation

New Mexico's Administrative Code, Water Quality Standards section 20.6.4.8 contains the State's antidegradation policy and closely mirrors that of the CWA. This policy requires that waters of higher quality than applicable standards be maintained in their higher quality.

New Mexico's antidegradation standards state that no degradation is allowed in waters designated as outstanding natural resource waters (ONRWs). ONRWs *may* include "surface waters of the state within national and state monuments, parks, wildlife refuges, waters of exceptional recreational or ecological significance, and waters identified under the Wild and Scenic Rivers Act."<sup>9</sup> ONRWs also can be nominated for designation by "any person" filing a

<sup>6</sup> These criteria are included in Table 4-1 in Chapter Four of New Mexico's 2004-2006 Integrated Report.

<sup>7</sup> An example is available at: [http://www.nmenv.state.nm.us/swqb/projects/SanJuan/SBD/DRAFT-SJR\\_SBD\\_Protocol09\\_14\\_04.pdf](http://www.nmenv.state.nm.us/swqb/projects/SanJuan/SBD/DRAFT-SJR_SBD_Protocol09_14_04.pdf).

<sup>8</sup> Protocol for the Assessment of Stream Bottom Deposits (Sedimentation/Siltation) On Wadeable Streams. New Mexico Environment Department, Surface Water Quality Bureau. January 28, 2004. Available at: [http://www.nmenv.state.nm.us/swqb/protocols/APP\\_D-SBD\\_Sedimentation\\_Protocol.pdf](http://www.nmenv.state.nm.us/swqb/protocols/APP_D-SBD_Sedimentation_Protocol.pdf).

<sup>9</sup> NMAC 20.6.4.8.A(3).

petition with the State.<sup>10</sup> Although a section of the State's administrative code has been reserved for a list of ONRWs, no waters have been listed.

New Mexico does not make use of the Tier II \_ concept. The State does not have formally designated Tier I and Tier II waters.

#### ONRWs on BLM Land

There are no listed ONRWs on BLM lands in New Mexico. However, the Wild and Scenic Rivers administered by BLM in New Mexico would qualify.

#### **305(b) Reporting**

The National Assessment Database (NAD) contains information on the attainment of water quality standards. Assessed waters are classified as either Fully Supporting, Threatened, or Not Supporting their designated uses. This information is reported in the National Water Quality Inventory Report to Congress under Section 305(b) of the CWA.<sup>11</sup>

#### **303(d) List and TMDLs**

The EPA TMDL Tracking System contains information on all impaired waters under section 303(d) of the CWA. The database also has information on EPA-approved TMDLs.<sup>12</sup> As of 2002, the date of the most recent data in the EPA's tracking system, New Mexico reported 206 water bodies on its 303(d) List and had 128 TMDLs approved. New Mexico's 2004 303(d) List can be found in Appendix B of its 2004-2006 Integrated Report.<sup>13</sup>

New Mexico maintains GIS coverage of impaired streams, but it is not available on-line. A copy of the GIS coverage can be obtained from the SWQB.

#### **303(d) List**

##### Listing and Credible Data Standards

New Mexico does not have specific credible data standards. However, the SWQB has issued Assessment Protocol<sup>14</sup> and maintains a Quality Assurance Project Plan (QAPP) which addresses data quality control for all monitoring activities.<sup>15</sup> In general, data collected by the SWQB during these intensive watershed surveys is combined with all readily available data collected the same year by other entities, provided the sampling methods meet requirements as detailed in the QAPP. This collated data set forms the basis of impairment decisions.

In New Mexico, no determination of Fully Supporting or Not Supporting may be made in the absence of monitored data. It is understood that any assessment, particularly when using biological and/or habitat data, may involve some level of best professional judgment (BPJ). However, evaluations based solely on professional judgment, literature statements, or public comments without reliable data to support the decision shall not be the *only* basis for a listing or de-listing.

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<sup>10</sup> NMAC 20.6.4.8.B.

<sup>11</sup> New Mexico's attainment of water quality standards can be found at: [http://oaspub.epa.gov/waters/w305b\\_report.state?p\\_state=NM](http://oaspub.epa.gov/waters/w305b_report.state?p_state=NM).

<sup>12</sup> New Mexico's 303(d) Lists and approved TMDLs are available at: [http://oaspub.epa.gov/waters/state\\_rept.control?p\\_state=NM](http://oaspub.epa.gov/waters/state_rept.control?p_state=NM).

<sup>13</sup> Available at: <http://www.nmenv.state.nm.us/wqcc/303d-305b/2004/>.

<sup>14</sup> Available at: [http://www.nmenv.state.nm.us/swqb/protocols/AssessmentProtocol2003\\_v7.pdf](http://www.nmenv.state.nm.us/swqb/protocols/AssessmentProtocol2003_v7.pdf).

<sup>15</sup> New Mexico's 2004 Quality Assurance Project Plan (QAPP) can be found at: [http://www.nmenv.state.nm.us/swqb/Planning/QAPP/2004/2004\\_QAPP.pdf](http://www.nmenv.state.nm.us/swqb/Planning/QAPP/2004/2004_QAPP.pdf).

New Mexico's Assessment Protocol contains information on data quality and how to interpret data to assess all of New Mexico's designated uses. The Assessment Protocol also contains information on how data is assessed to determine if a water body should be listed or de-listed. For example, Figure Two explains how to interpret bacteriological data to assess contact use support. Similar tables and text are available for the following use supports: aquatic life (biological and habitat data, chemical/physical data, and toxicological data), domestic water supply (chemical/physical data), primary and secondary contact (bacteriological data), irrigation (chemical/physical data and bacteriological data), livestock watering (chemical/physical data), wildlife habitat (chemical/physical data), and human health (chemical/physical data).

**Figure Two: Interpreting Bacteriological Data to Assess Contact Use Support**

Type of Data	Fully Supporting	Not Supporting
<b>Fecal coliform</b>		
A) 1 to 7 samples	A) No more than one exceedance of the single sample criterion.	A) More than one exceedance of the single sample criterion.
B) >7 samples	B) Single sample criterion is exceeded in <15% of the samples and geometric mean criterion is met.	B) Single sample criterion exceeded in > 15% of the measurements and/or geometric mean criterion is not met.

#### De-Listing

The same procedure as detailed in the Assessment Protocol for listing is used for de-listing. If these procedures indicate a water body is not impaired, the water body will be de-listed.

#### **TMDLs**

In New Mexico, TMDLs are written by the SWQB, but implemented on a watershed basis through watershed groups. In order to help watershed groups implement TMDLs, the SWQB writes TMDL documents on a watershed basis. WQCC-approved TMDL implementation plans are then incorporated into each watershed's corresponding Watershed Restoration Action Strategy (WRAS). WRASs with TMDLs have been developed, or are in the process of being developed for the Chama, Cimarron, Comanche Creek, Cordova Creek, Rio Costilla, Rio Embudo, Gallinas, Galisteo, Gila/San Francisco, Upper Hondo, Jemez, Mimbres, Mora, Pajarito Plateau, Pecos, Pueblo Canyon, Rio Puerco, Rio Puerco de Chama, Red River, Ruidoso, San Juan Basin, Santa Barbara, Santa Fe, and Rio Vallecitos watersheds. WRAS are further discussed in the nonpoint source pollution section below.

In 2004, the SWQB was nearing the end of its obligations under a consent decree with Forest Guardians to create TMDLs for a number of water bodies. The SWQB is changing the focus of prioritizing CWA §319(h) grants from categorization set by the CWAP/UWA to water bodies that have completed TMDLs or where data has been assessed for a future TMDL.

### Establishment, Apportionment, and Implementation

As mentioned above, TMDLs are implemented through watershed groups; however implementation plans are not required. Although implementation plans are not a required element for TMDLs at this time, the SWQB does provide information and suggestions regarding implementation that are used by watershed groups in their WRAS.

### Water Quality Monitoring

New Mexico's monitoring strategy establishes methods of identifying and prioritizing water quality data needs, specifies procedures for acquiring and managing water quality data, and describes how these data are used. The State acquires water quality data by four basic forms of monitoring: 1) ambient, fixed station monitoring performed by the USGS; 2) special intensive rotational water quality surveys of priority water bodies; 3) effluent monitoring; and 4) nonpoint source project monitoring.<sup>16</sup> The SWQB also occasionally conducts special studies when additional information is needed to develop or revise TMDL planning or to investigate specific water quality concerns.

Similar to other States, the heart of New Mexico's monitoring program is a rotating basin water quality survey. A select number of watersheds are intensively monitored each year with an established return frequency of approximately every seven years. These surveys involve eight one-day sampling trips spread out through the spring, summer, and fall.

### Nonpoint Source Pollution Program

New Mexico's nonpoint source management program uses incentives to implement *voluntary* compliance and restoration efforts. These include section 319 funding and technical support and guidance through the SWQB. The program focuses on a Watershed Restoration Action Strategy (WRAS) process for coordinating watershed restoration efforts, fostering watershed associations, partnering with agencies, entities, and the public, and implementing TMDLs. New Mexico's most recent nonpoint source management program document was completed in 1999.<sup>17</sup>

On a statewide basis, the NPS Management Program coordinates with existing programs of Federal and State agencies and local governments. However, the program primarily focuses on waters at the watershed level. An important part of New Mexico's program is fostering and strengthening watershed groups throughout the State. Grants through § 319 funding provide watershed groups incentives to develop WRAS (a watershed plan) to reduce NPS pollutants. A WRAS is a 'living' document that includes TMDL assessment data, outreach, monitoring, proposed new projects, and sources of funding as major components of each plan. Stakeholder involvement at all levels, from creating the WRAS through implementation of on-the-ground projects, is a critical component of the watershed approach. Any watershed restoration project funded with section 319 grants in New Mexico must have a WRAS in place for that watershed. As mentioned above, the SWQB writes TMDL documents on a watershed basis in order to help watershed groups integrate TMDLs into their WRAS.

Besides the State's nonpoint source management program, other programs are addressing nonpoint source pollution. State agencies such as the Soil and Water Conservation Districts (SWCD), State Land Office (SLO), and Forestry Division, as well as Federal agencies such as the Natural Resources Conservation Service (NRCS), the Forest Service, and the Bureau of Land Management (BLM), are routinely including water quality BMPs to control nonpoint source

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<sup>16</sup> The four components of New Mexico's monitoring program are described in Chapter 4, Section 1 of the State's 2004-2006 Integrated Report. Available at: [http://www.nmenv.state.nm.us/wqcc/303d-305b/2004/2004\\_303d-305b\\_Report-Chapter4.pdf](http://www.nmenv.state.nm.us/wqcc/303d-305b/2004/2004_303d-305b_Report-Chapter4.pdf).

<sup>17</sup> Available at: [http://www.nmenv.state.nm.us/swqb/NPS\\_Management\\_Plan-1999.pdf](http://www.nmenv.state.nm.us/swqb/NPS_Management_Plan-1999.pdf).

pollution from their activities. The SWCD, NRCS, and the Forest Service have also initiated several major watershed restoration projects specifically aimed at NPS pollution abatement. An additional program includes a riparian improvement program (RIP) whose purpose is to identify, prioritize, and implement restoration projects in riparian areas and associated watersheds located on State trust lands in cooperation with lessees, adjoining land owners, and land management agencies.

## **BMPs**

In New Mexico, sources of NPS pollution include on-site liquid waste disposal, roads, recreation, urban stormwater run-off, agriculture, ranching, silviculture, and resource extraction. The State encourages the use of BMPs for the control of NPS pollutants through a combination of efforts including incentive programs, partnerships, and education and outreach activities. New Mexico does not have a handbook or compilation of BMPs, although appendix B of its nonpoint source management program document contains examples of BMPs for various activities.<sup>18</sup> Statewide BMP efforts vary by NPS category and these are discussed in chapter 4, section 11.3 of New Mexico's 2004-2006 Integrated Report.<sup>19</sup>

## **Implementation on Federal Land**

Under Work Element 5 of the New Mexico Statewide Water Quality Management Plan, the NPS Management Program can identify specific federal agencies and their programs as having designated management responsibilities for lands and water quality standards compliance within their jurisdictions. Designated management agencies are responsible for implementation of NPS pollution management and control and agree to coordinate with the SWQB in the development and implementation of BMPs. Interagency agreements (e.g., MOUs or MOAs) outline management responsibilities unique to each agency's area of responsibility and expertise. New Mexico designated management agencies for NPS pollution control include the BLM and the USFS.

## **Federal Consistency**

The Federal consistency provisions of section 319 of the CWA authorize New Mexico to review Federal financial assistance programs and development projects for their effect on water quality. If the State determines that an application or project is not consistent with the State Nonpoint Source Management Program and notifies the Federal agency of its concerns, the agency must make efforts to accommodate the State's concerns, or explain its decision to not make accommodations, in accordance with Executive Order 12372. Additionally, section 313 of the CWA requires Federal agencies having jurisdiction over property or facilities, or engaged in activities which may result in water pollution, to comply with State and local water pollution control regulations and authorities to the same extent as any non-governmental entity.

The SWQB Watershed Protection Section coordinates consistency reviews of Federal, State, and local projects. The SWQB reviews environmental impact statements, environmental assessments, and various notices of intent to determine consistency with the State's NPS program and directs comments to the agencies. Review considers whether proposed actions could cause water quality standards violations directly, indirectly, or cumulatively, and whether BMP plans are sufficient to protect those standards. Examples of projects evaluated for consistency include oil and gas development, ski area activities, hazardous fuels reduction, river management alternatives, CWA § 404 dredge-and-fill permits, grazing permit renewals, recreational

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<sup>18</sup> *Id.*

<sup>19</sup> *Supra* note 17.

development or management, wildfire rehabilitation, watershed improvements, and fish habitat improvements.

## **Enforceable State Laws/Policies/Programs to Limit NPS Pollution**

### **Water Pollution Control Laws**

New Mexico's Water Quality Act does not contain any prohibitions directly applicable to nonpoint source pollution, but the act does broadly authorize the Water Quality Control Commission to "promulgate and publish regulations to prevent or abate water pollution in the state" and to require permits.<sup>20</sup> Thus, nonpoint source controls depend on the promulgation of specific regulations.

"Water pollution" is defined as "introducing or permitting the introduction into water, either directly or indirectly, of one or more water contaminants in such quantity and of such duration as may with reasonable probability injure human health, animal or plant life or property, or to unreasonably interfere with the public welfare or the use of property."<sup>21</sup> The act directs the commission to "adopt water quality standards for surface and groundwaters of the state,"<sup>22</sup> and gives it discretion to adopt regulations requiring "a permit for the discharge of water quality resulting from beneficial use [provided] such degradation shall not result in impairment of water quality to the extent that water quality standards are exceeded."<sup>23</sup>

Certain exemptions apply to this authority. Activities regulated under the State oil and gas act, and activities regulated under the State's groundwater, hazardous waste, or solid waste acts, are exempt. Also, the commission is prevented from placing permit requirements on the "use of water in irrigated agriculture, except in the case of employment of a specific practice in connection with such irrigation that documentation or actual case history has shown to be hazardous to public health or the environment."<sup>24</sup>

The commission is required to assign responsibility for administering its regulations to "constituent agencies," such as the Department of Environment, State Engineer, Department of Game and Fish, and Department of Agriculture, among others.<sup>25</sup>

### **Fish and Fisheries Laws**

No provisions relate explicitly to fish kills or habitat destruction due to nonpoint source pollution. However, the State game commission is empowered to "prohibit the killing or taking of any ... game fish of any kind or sex."<sup>26</sup>

## **Operational Requirements**

### **Forestry Requirements**

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<sup>20</sup> N.M. Stat. Ann. § 74-6-4(D).

<sup>21</sup> N.M. Stat. Ann. § 74-6-2(B). The Act defines "water contaminant" to mean "any substance that could alter if discharged or spilled the physical, chemical, biological or radiological qualities of water." N.M. Stat. Ann. §74-6-2(A).

<sup>22</sup> N.M. Stat. Ann. § 74-6-5(A).

<sup>23</sup> N.M. Stat. Ann. § 74-6-12.

<sup>24</sup> N.M. Stat. Ann. § 74-6-4(K).

<sup>25</sup> N.M. Stat. Ann. § 74-6-4(E), (J).

<sup>26</sup> N.M. Stat. Ann. § 17-2-1.

New Mexico forestry laws do not appear to contain enforceable provisions relating to nonpoint source discharges. However, New Mexico counties may enact ordinances addressing harvesting practices.<sup>27</sup>

### **Agriculture and Grazing Requirements**

New Mexico law has provisions for creation of local soil and water conservation districts, and conservancy districts. However, neither have regulatory powers. State law also allows for the creation of local wind erosion districts. Once created, these bodies can respond to complaints of property damage due to “effects of wind erosion on lands of an adjoining freeholder.”<sup>28</sup>

### **Earth-Disturbing Activities**

No relevant operating requirements are set forth, apart from those that may be contained in the CWA stormwater programs or those authorized under general zoning and construction authorities of counties.

### **Wetlands and § 404 Permits**

Individual wetlands in New Mexico have not yet been classified in the State water quality standards. As a result, wetlands do not have designated uses, but they do have the existing use of livestock watering and wildlife habitat. Wetlands are defined in the State's water quality standards as “waters of the State.” As waters of the State, wetlands are protected under the general standards, the antidegradation policy, and any existing or attainable use under the State water quality standards.

New Mexico defines wetlands as “those areas which are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions in New Mexico”.<sup>29</sup>

### **State Implementation of § 404**

The § 404 dredge and fill permit program in New Mexico is administered by the U.S. Army COE of Engineers. The state reviews 404 projects pursuant to CWA section 401 State certification provisions. Any certification includes conditions to ensure compliance with State water quality standards.

### **Additional State Laws/Policies/Programs for Wetlands**

The State is in the process of developing a wetlands program with funding from the EPA. To date, no new laws/policies have been proposed. However, the State plans to encourage watershed groups to voluntarily develop “Wetlands Action Plans” as an additional component of their WRASs. The “Wetlands Action Plan” will include the identification of wetlands resources and measures to protect, enhance, and create new wetlands. Wetland Action Plans will also include education and outreach programs, as well as a monitoring component.

### **Stormwater Provisions**

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<sup>27</sup> For example, Rio Arriba Count adopted a permitting process for timber harvests incorporating the voluntary New Mexico forest practice guidelines as mandatory conditions.

<sup>28</sup> N.M. Stat. Ann. § 73-22-5(A).

<sup>29</sup> Section 20.6.4.7.CCC of the Standards for Interstate and Intrastate Surface Waters in New Mexico.

Since the EPA is the permitting authority for New Mexico, a Construction General Permit<sup>30</sup> (CGP) is required for any construction activity one acre and above, including smaller sites that are part of a larger common plan of development or sale. The CGP outlines a set of provisions construction operators must follow to comply with the requirements of the NPDES stormwater regulations, and the CGP replaces and updates previous EPA permits.

In New Mexico, permit number NMR150000 is required for activities on non-Indian land, and permit number NMR15000I is required in Indian country.

The BLM has filed notices to comply for several construction activities, and the agency informs permittees they are subject to stormwater provisions.

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<sup>30</sup> Available at: [http://www.epa.gov/npdes/pubs/cgp2003\\_entirepermit.pdf](http://www.epa.gov/npdes/pubs/cgp2003_entirepermit.pdf)